



Office of General Counsel

ROBERT T. REILLY

General Counsel

Albany

Buffalo

New York

Jennifer N. Coffey
Associate General Counsel

Lena M. Ackerman
Assistant General Counsel

Jennifer A. Hogan
Associate General Counsel

April 4, 2024

VIA ECF & EMAIL (Failla_NYSDChambers@nysd.uscourts.gov)

Honorable Katherine Polk Failla
United States District Court
Southern District of New York
Thurgood Marshall Courthouse
40 Foley Square
New York, NY 10007

MEMO ENDORSED

Re: B.G., et al. v. City of New York, et al.
Case: 1:23-cv-03761 (KPF)
Our File No. 267805-F100

Dear Judge Failla:

This letter constitutes a joint request by counsel for all parties in the above-referenced matter. The joint request seeks a partial stay of discovery, specifically discovery relating to compensatory damages claims. With this matter presently before Magistrate Judge Robyn F. Tarnofsky for the purpose of settlement, a stay is aimed at resolving the injunctive relief component of the matter, which has been Judge Tarnofsky's focus in *ex parte* meetings with the parties.

Pursuant to Your Honor's January 17, 2024 revised scheduling order, fact discovery is currently scheduled for completion by April 18, 2024. However, over the last two months, counsel have been engaged in repeated *ex parte* settlement discussions with Judge Tarnofsky, with a focus on injunctive relief measures relating to an emergency notification system at P.S. 347 – a New York City public school with deaf and hard of hearing students and staff. Plaintiffs' counsel is expected to follow up with Judge Tarnofsky next on or about April 15, 2024 to further facilitate the settlement discussions. The parties are hopeful that discussions before Judge Tarnofsky will produce a settlement.

On April 2, 2024, counsel for all parties met and conferred to discuss the status of discovery and the interplay between discovery and the ongoing settlement discussions addressing injunctive relief. Per that discussion, the parties submit that pausing discovery in part would be in the interest of all parties, as it would reduce potential attorney's fees associated with continued fact discovery and allow the parties to further concentrate their efforts on settlement as it relates to injunctive relief. In particular, when the parties turn to addressing compensatory damages and attorney's fees

in settlement discussions, a partial stay of discovery at this time may reduce the attorney's fees that Plaintiffs will seek to recover.

While a partial stay of discovery would for now pause the need for Plaintiffs and Defendants to produce discovery associated with compensatory damages claims, pursuant to the April 2, 2024 meet and confer, the parties have agreed that Defendants will continue to produce documents relating to injunctive relief. Defendants' counsel will endeavor to produce additional documentation to Plaintiffs related to injunctive matters by May 6, 2024.

We propose setting a date of on or about June 17, 2024 for counsel to report back to Your Honor on the status of settlement discussions, as well as the issue of a partial stay of discovery. The parties anticipate that, at that time, we would address the issue of the partial stay and the subject of a revised scheduling order.

Thank you for your consideration and attention in this matter.

Respectfully,

ROBERT T. REILLY

By: /s/ Keith J. Gross
KEITH J. GROSS
JUNOU M. ODIGE
Of Counsel

KJG/ts

c: Hon. Robyn F. Tarnofsky
(via email: TarnofskyNYSDChambers@nysd.uscourts.gov)

Counsel for Plaintiffs & Defendants (via ECF)

Application GRANTED. The parties shall file a letter update concerning, as appropriate, the status of settlement discussions, the necessity of extending the partial stay of discovery, and / or a revised scheduling order on or before **June 17, 2024**.

The Clerk of Court is directed to terminate the pending motion at docket entry 46.

Dated: April 4, 2024
New York, New York

SO ORDERED.



HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE